

Assembly Bill No. 2329

Passed the Assembly August 24, 1998

Chief Clerk of the Assembly

Passed the Senate August 17, 1998

Secretary of the Senate

This bill was received by the Governor this ____ day
of _____, 1998, at ____ o'clock __M.

Private Secretary of the Governor

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CHAPTER ____

An act to amend Section 70901 of the Education Code, and to amend Sections 10295, 10430, 12100.5, and 12120 of, and to add Sections 20661 and 20662 to, the Public Contract Code, relating to community colleges.

LEGISLATIVE COUNSEL'S DIGEST

AB 2329, Firestone. Community colleges: contracts.

Under existing law, the Regents of the University of California and the Trustees of the California State University are not subject to laws governing contracts for the state procurement of materials, goods, supplies, or services, or for the acquisition of electronic data-processing and telecommunications goods and services, with certain exceptions. Under existing law, the trustees are required to develop policies and procedures that further expressed legislative policies for procurement without the involvement of the Department of Finance or the Department of General Services.

This bill would provide that the Board of Governors of the California Community Colleges is not subject to the laws described above, but would require the board to develop policies and procedures that further express legislative policies for procurement without the involvement of the Department of Finance or the Department of General Services.

Under existing law, Section 8 of Article XVI of the California Constitution (Proposition 98) sets forth a formula for computing the minimum amount of General Fund revenues that the state is required to appropriate for the support of school districts, as defined, and community college districts for each fiscal year.

The bill would authorize the Chancellor of the California Community Colleges to enter into a contract on behalf of one or more community college districts, subject to certain restrictions. The bill would require the chancellor to report to the Legislature and the Governor



by January 1, 2001, on contracts entered into pursuant to these provisions and any resultant cost savings. The bill would authorize the chancellor to enter into a contract with a community college district whereby the district performs services or acts as a fiscal agent on behalf of the California Community Colleges when the funds for the contract or agreement are in satisfaction of the state obligation to provide funding pursuant to Section 8 of Article XVI of the California Constitution. The bill would authorize the Board of Governors of the California Community Colleges to adopt regulations to implement the provisions of this paragraph.

This bill would incorporate additional changes in Section 10430 of the Public Contract Code proposed by SB 412, to be operative if SB 412 and this bill are both enacted and become effective on or before January 1, 1999, and this bill is enacted last.

The people of the State of California do enact as follows:

SECTION 1. Section 70901 of the Education Code is amended to read:

70901. (a) The Board of Governors of the California Community Colleges shall provide leadership and direction in the continuing development of the California Community Colleges as an integral and effective element in the structure of public higher education in the state. The work of the board of governors shall at all times be directed to maintaining and continuing, to the maximum degree permissible, local authority and control in the administration of the California Community Colleges.

(b) Subject to, and in furtherance of, subdivision (a), and in consultation with community college districts and other interested parties as specified in subdivision (e), the board of governors shall provide general supervision over community college districts, and shall, in furtherance thereof, perform the following functions:

(1) Establish minimum standards as required by law, including, but not limited to, the following:



(A) Minimum standards to govern student academic standards relating to graduation requirements and probation, dismissal, and readmission policies.

(B) Minimum standards for the employment of academic and administrative staff in community colleges.

(C) Minimum standards for the formation of community colleges and districts.

(D) Minimum standards for credit and noncredit classes.

(E) Minimum standards governing procedures established by governing boards of community college districts to ensure faculty, staff, and students the right to participate effectively in district and college governance, and the opportunity to express their opinions at the campus level and to ensure that these opinions are given every reasonable consideration, and the right of academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards.

(2) Evaluate and issue annual reports on the fiscal and educational effectiveness of community college districts according to outcome measures cooperatively developed with those districts, and provide assistance when districts encounter severe management difficulties.

(3) Conduct necessary systemwide research on community colleges and provide appropriate information services, including, but not limited to, definitions for the purpose of uniform reporting, collection, compilation, and analysis of data for effective planning and coordination, and dissemination of information.

(4) Provide representation, advocacy, and accountability for the California Community Colleges before state and national legislative and executive agencies.

(5) Administer state support programs, both operational and capital outlay, and those federally supported programs for which the board of governors has responsibility pursuant to state or federal law. In so doing, the board of governors shall do the following:



(A) Annually prepare and adopt a proposed budget for the California Community Colleges. The proposed budget shall, at a minimum, identify the total revenue needs for serving educational needs within the mission, the amount to be expended for the state general apportionment, the amounts requested for various categorical programs established by law, the amounts requested for new programs and budget improvements, and the amount requested for systemwide administration.

The proposed budget for the California Community Colleges shall be submitted to the Department of Finance in accordance with established timelines for development of the annual Budget Bill.

(B) To the extent authorized by law, establish the method for determining and allocating the state general apportionment.

(C) Establish space and utilization standards for facility planning in order to determine eligibility for state funds for construction purposes.

(6) Establish minimum conditions entitling districts to receive state aid for support of community colleges. In so doing, the board of governors shall establish and carry out a periodic review of each community college district to determine whether it has met the minimum conditions prescribed by the board of governors.

(7) Coordinate and encourage interdistrict, regional, and statewide development of community college programs, facilities, and services.

(8) Facilitate articulation with other segments of higher education with secondary education.

(9) Review and approve comprehensive plans for each community college district. The plans shall be submitted to the board of governors by the governing board of each community college district.

(10) Review and approve all educational programs offered by community college districts, and all courses that are not offered as part of an educational program approved by the board of governors.



(11) Exercise general supervision over the formation of new community college districts and the reorganization of existing community college districts, including the approval or disapproval of plans therefor.

(12) Notwithstanding any other provision of law, be solely responsible for establishing, maintaining, revising, and updating, as necessary, the uniform budgeting and accounting structures and procedures for the California Community Colleges.

(13) Establish policies regarding interdistrict attendance of students.

(14) Advise and assist governing boards of community college districts on the implementation and interpretation of state and federal laws affecting community colleges.

(15) Contract for the procurement of goods and services, as necessary.

(16) Carry out other functions as expressly provided by law.

(c) Subject to, and in furtherance of, subdivision (a), the board of governors shall have full authority to adopt rules and regulations necessary and proper to execute the functions specified in this section as well as other functions that the board of governors is expressly authorized by statute to regulate.

(d) Wherever in this section or any other statute a power is vested in the board of governors, the board of governors, by a majority vote, may adopt a rule delegating that power to the chancellor, or any officer, employee, or committee of the California Community Colleges, or community college district, as the board of governors may designate. However, the board of governors shall not delegate any power that is expressly made nondelegable by statute. Any rule delegating authority shall prescribe the limits of delegation.

(e) In performing the functions specified in this section, the board of governors shall establish and carry out a process for consultation with institutional representatives of community college districts so as to ensure their participation in the development and review



of policy proposals. The consultation process shall also afford community college organizations, as well as interested individuals and parties, an opportunity to review and comment on proposed policy before it is adopted by the board of governors.

SEC. 2. Section 10295 of the Public Contract Code, as amended by Chapter 88 of the Statutes of 1998, is amended to read:

10295. All contracts entered into by any state agency for (a) the hiring or purchase of equipment, supplies, materials, or elementary school textbooks, (b) services, whether or not the services involve the furnishing or use of equipment, materials or supplies or are performed by an independent contractor, (c) the construction, alteration, improvement, repair or maintenance of property, real or personal, or (d) the performance of work or services by the state agency for or in cooperation with any person, or public body, are void unless and until approved by the department. Every such contract shall be transmitted with all papers, estimates, and recommendations concerning it to the department and, if approved by the department, shall be effective from the date of the approval. This section applies to any state agency that by general or specific statute is expressly or impliedly authorized to enter into transactions referred to in this section. This section does not apply to any transaction entered into by the Trustees of the California State University, by the Board of Governors of the California Community Colleges, or by a department under the State Contract Act or the California State University Contract Law, any contract of a type specifically mentioned and authorized to be entered into by the Department of Transportation under Section 14035 or 14035.5 of the Government Code, Sections 99316 to 99319, inclusive, of the Public Utilities Code, or the Streets and Highways Code, any contract entered into by the Department of Transportation that is not funded by money derived by state tax sources but, rather, is funded by money derived from federal or local tax sources, any contract entered into by the Department of Personnel



Administration for state employees in State Bargaining Unit 16 for employee benefits, occupational health and safety, training services, or combination thereof any contract let by the Legislature, or any contract entered into under the authority of Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code.

SEC. 3. Section 10430 of the Public Contract Code, as amended by Section 72 of Chapter 88 of the Statutes of 1998, is amended to read:

10430. This chapter does not apply to any of the following:

(a) The Regents of the University of California.

(b) Transactions covered under Chapter 3 (commencing with Section 12100).

(c) Except as otherwise provided in this chapter, any entity exempted from the provisions of Section 10295 or 10295.1. However, the Trustees of the California State University and the Board of Governors of the California Community Colleges shall be governed by this chapter except with regard to transactions covered under the California State University and Colleges Contract Law, and except as provided in Sections 10295, 10335, 10356, and 10389.

(d) Transactions covered under Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code.

(e) Except as provided for in subdivision (c), members of boards or commissions who receive no payment other than payment for each meeting of the board or commission, payment for preparatory time, and payment for per diem.

(f) The emergency purchase of protective vests for correctional peace officers whose duties require routine contact with state prison inmates. This subdivision shall remain operative only until January 1, 1987.

(g) Spouses of state officers or employees and individuals and entities that employ spouses of state officers and employees, that are vendored to provide services to regional center clients pursuant to Section



4648 of the Welfare and Institutions Code if the vendor of services, in that capacity, does not receive any material financial benefit, distinguishable from the benefit to the public generally, from any governmental decision made by the state officer or employee.

SEC. 3.5. Section 10430 of the Public Contract Code, as amended by Section 72 of Chapter 88 of the Statutes of 1998, is amended to read:

10430. This chapter does not apply to any of the following:

(a) The Regents of the University of California.

(b) (1) Transactions covered under Chapter 3 (commencing with Section 12100), except that Sections 10365.5, 10410, and 10411 shall apply to all individuals, companies, corporations, or other entities that bid on or are awarded contracts, either as contractors or subcontractors, pursuant to that chapter.

(2) The changes made to this subdivision during the 1998 portion of the 1997–98 Regular Session shall not be construed to have retroactive effect on any pending action, arbitration, or administrative proceeding, but shall only apply to an action, arbitration, or administrative proceeding, at law or in equity, that is commenced on or after January 1, 1999.

(c) Except as otherwise provided in this chapter, any entity exempted from the provisions of Section 10295 or 10295.1. However, the Trustees of the California State University and the Board of Governors of the California Community Colleges shall be governed by this chapter except with regard to transactions covered under the California State University and Colleges Contract Law, and except as provided in Sections 10295, 10335, 10356, and 10389.

(d) Transactions covered under Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code.

(e) Except as provided for in subdivision (c), members of boards or commissions who receive no payment other than payment for each meeting of the



board or commission, payment for preparatory time, and payment for per diem.

(f) The emergency purchase of protective vests for correctional peace officers whose duties require routine contact with state prison inmates. This subdivision shall remain operative only until January 1, 1987.

(g) Spouses of state officers or employees and individuals and entities that employ spouses of state officers and employees, that are vendored to provide services to regional center clients pursuant to Section 4648 of the Welfare and Institutions Code if the vendor of services, in that capacity, does not receive any material financial benefit, distinguishable from the benefit to the public generally, from any governmental decision made by the state officer or employee.

SEC. 4. Section 12100.5 of the Public Contract Code is amended to read:

12100.5. The Regents of the University of California, the Trustees of the California State University, and the Board of Governors of the California Community Colleges shall not be subject to this chapter except that the trustees shall develop policies and procedures maintained in its state university administrative manual and the board shall adopt policies and procedures maintained in its administrative manual that further the legislative policies for procurement expressed in this chapter but without the involvement of the Director of Finance and the Director of General Services or the Department of Finance and the Department of General Services.

SEC. 5. Section 12120 of the Public Contract Code is amended to read:

12120. The Legislature finds and declares that, with the advent of deregulation in the telecommunications industry, substantial cost savings can be realized by the state through the specialized evaluation and procurement of alternative telecommunications systems. All contracts for the acquisition of telecommunications services and all contracts for the acquisition of telecommunications goods, whether by lease or purchase,



shall be made by, or under the supervision of, the Department of General Services. All procurements shall be accomplished in accordance with Chapter 3 (commencing with Section 12100), relating to the acquisition of electronic data-processing goods and services, except to the extent any directive or provision is uniquely applicable to electronic data-processing acquisitions. The Department of General Services shall have responsibility for the establishment of policy and procedures for telecommunications. The Department of General Services shall have responsibility for the establishment of tactical policy and procedures for data-processing acquisitions consistent with statewide strategic policy as established by the Department of Finance. The Department of Finance shall have review and approval responsibility of data-processing information and telecommunication acquisitions to assure consistency with budgetary objectives. The Trustees of the California State University and the Board of Governors of the California Community Colleges shall assume the functions of the Department of Finance and the Department of General Services with regard to procurement of telecommunication goods and services by the California State University and the California Community Colleges, respectively. The trustees and the board shall each grant to the Department of General Services, Division of Telecommunications, an opportunity to bid whenever the university or the college system solicits bids for telecommunications goods and services.

SEC. 6. Section 20661 is added to the Public Contract Code, to read:

20661. (a) The Chancellor of the California Community Colleges is authorized to enter into a contract on behalf of one or more community college districts, subject to the following restrictions:

(1) No district may be required to participate in any contract entered into pursuant to this section.

(2) The cost to each district that is a party to or a beneficiary of a contract entered into pursuant to this



section must be lower than the cost the district could obtain through its standard contracting procedures. No contract for the procurement of goods or services may be made when a bid has been received by a participating district for the procurement of the same goods or services unless the contract would result in a lower price for the goods or services upon the same terms, conditions, and specifications.

(3) The state shall not incur any financial responsibility in connection with a contract entered into pursuant to this section.

(b) The Chancellor of the California Community Colleges is authorized to charge a fee, commission, or other charge to either or both of the following:

(1) Each provider of goods or services under a contract entered into pursuant to this section.

(2) Each community college district that the chancellor enters into a contract on behalf of pursuant to this section.

(c) On or before January 1, 2001, the Chancellor of the California Community Colleges shall report to the Legislature and the Governor on contracts entered into pursuant to this section and any resultant cost savings.

(d) The Board of Governors of the California Community Colleges shall adopt regulations to implement this section.

SEC. 7. Section 20662 is added to the Public Contract Code, to read:

20662. The Chancellor of the California Community Colleges is authorized to enter into a contract or other agreement with the governing board of any community college district whereby the district performs services or acts as a fiscal agent on behalf of the California Community colleges. This section shall apply only when the funds for the contract or agreement are in satisfaction of the state obligation to provide funding pursuant to Section 8 of Article XVI of the California Constitution.

SEC. 7.5. (a) Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code applies to the Board of Governors of



the California Community Colleges and to the Chancellor's Office of the California Community Colleges. The Legislature finds and declares that this subdivision is declaratory of existing law.

(b) Nothing in this act shall be construed to provide any exemption from Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code for the Board of Governors of the California Community Colleges or the Chancellor's Office of the California Community Colleges.

SEC. 8. It is the intent of the Legislature that this act will result in greater efficiency in the operation of the California Community Colleges.

SEC. 9. Section 3.5 of this bill incorporates amendments to Section 10430 of the Public Contract Code proposed by both this bill and SB 412. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1999, (2) each bill amends Section 10430 of the Public Contract Code, and (3) this bill is enacted after SB 412, in which case Section 3 of this bill shall not become operative.

Approved _____, 1998

Governor

